

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ETAN LEIBOVITZ,

Plaintiff,

-against-

TRANSFER ORDER
14-CV-2601 (KAM)

JUDGE ANTHONY FERRARA, Individually
and in His Official Capacity as Justice of the
Criminal Court of the City of New York,
County of New York; JUDGE ERIKA
EDWARDS, Individually and in Her
Official Capacity as Justice of the Criminal
Court of the City of New York, County of
New York; FRANCESCA BARTOLOMEY,
Assistant District Attorney, Individually
and in Her Official Capacity as ADA for the
New York County District Attorney's Office,

Defendants.

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MATSUMOTO, United States District Judge:

Plaintiff Etan Leibowitz ("plaintiff") filed this *pro se* action on April 23, 2014, pursuant to 42 U.S.C. § 1983, in connection with criminal proceedings held in New York County Criminal Court. (*See* ECF No. 1, Complaint dated 4/23/14 ("Compl.")) For the reason discussed below, the court transfers this action to the United States District Court for the Southern District of New York.

Section 1391(b) of Title 28 of the United States Code provides that an action may be brought in:

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b).

None of the named defendants reside in the Eastern District of New York and plaintiff's claims relate to events that are alleged to have occurred in New York County (*see generally* Compl.). Accordingly, this court is not the appropriate court in which to file this action. If an action is filed in the wrong district court, a court "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a).

In the interest of justice, the Clerk of Court is hereby directed to transfer this action to the United States District Court for the Southern District of New York. 28 U.S.C. §§ 112(b); 1406(a).

The court offers no opinion on the merits of the action. The decision on plaintiff's application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 is reserved for the transferee court. That provision of Local Rule 83.1 which requires a seven day stay is hereby waived. Summonses shall not issue from this court. The Clerk of Court is directed to mark this case closed.

SO ORDERED.

/s/
KIYO A. MATSUMOTO
United States District Judge
Eastern District of New York

Dated: Brooklyn, New York
May 5, 2014